MULTIMEDIA UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

# FINAL EXAMINATION

**TRIMESTER 1, 2015/2016**

## ULF2612 – FAMILY LAW I

(All Sections / Groups)

12 October 2015

Reading Time : 2.30pm – 2.45pm (15 Minutes)
Answering Time: 2.45pm – 5.45pm (3 Hours)

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**INSTRUCTIONS TO STUDENT:**

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Answer any **FOUR** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into the Examination Hall only a CLEAN and ORIGINAL copy of the:

   i. Law Reform (Marriage and Divorce) Act 1976 (Act 164).

5. Please write all your answers in the Answer Booklet provided.

## QUESTION 1

*"Learned counsel for the defendant has drawn to my attention the oral decision of the Federal Court given on 29 January 2004 in* ***Chai Siew Yin v. Leong Wee Shing in Federal Court Civil Appeal No. 02-10-2003(W).*** *In view of the decision of the Federal Court, to my mind there can be no doubt that the customary marriage between the plaintiff and the defendant is void and ought not to he recognized for non-registration. That is why, in my view, the legal consequences are that the two children who were born out of a relationship between the plaintiff and the defendant are the illegitimate children of them."*

(per: Azahar Mohamed JC (as his Lordship then was) in ***KOH LAI KIOW V LOW NAM HUI*** [2005] 3 CLJ 139 )

Critically evaluate the above statement in the context of the interpretation of section 34 of the Law Reform (Marriage and Divorce) Act 1976 (Act 164).

(Total: 25 marks)

## QUESTION 2

Can the following marriages be solemnised in Malaysia today?

a) Rachel a 17 year old widow with a baby wants to marry Ross a 17 year old widower. Both their parents object to the union.

(12 ½ marks)

b) Raju a Hindu wants to marry his sister's daughter, and the parties wish to be married in the same temple where their respective parents were married.

(12 ½ marks)

(Total: 25 marks)

**Continued...**

## QUESTION 3

Maria a Malaysian had married Roger a Canadian in 2005. Their marriage was solemnised in Canada and their two children aged 8 and 5 respectively were born in Canada and are Canadian citizens. Although the marriage was happy initially, in the last three years however problems have emerged largely due to Roger's alcoholism and addiction to gambling. Maria was prepared to tolerate Roger's behaviour for the sake of the children initially, but had since changed her mind following several incidence of domestic violence against her. She has also discovered that Roger has been unfaithful to her. On the last trip back to Malaysia on a holiday with her children, Maria had decided not to return to Canada. She has decided to file for a divorce and seek custody of her two children.

Advise Maria of the following issues:

(i) whether she could file for divorce in Malaysia and if so what would be the grounds of the petition; and

(ii) whether the Malaysian courts have the jurisdiction to decide on the custody of the children.

(Total: 25 marks)

## QUESTION 4

Tan Sri XYZ, now aged 78, a Malaysian business tycoon had married Puan Sri ABC, now aged 72, a former Malaysian beauty queen in 1970 in a Church in Melaka.They have five children from the marriage, all of whom are now over 18. At the time of their marriage, Tan Sri XYZ was already a millionaire running a successful property company. Over the years Tan Sri XYZ's aggressive approach to business and his talent for investing in property increased his value from RM5 million in 1970 to his current value RM1.5 billion. Puan Sri ABC has been at his side throughout the years providing support in his business by accompanying him on many of his business trips as well as taking charge of running the family. In December 2008 when Tan Sri XYZ suffered a stroke his wife had looked after him devotedly. Following Tan Sri's recovery from the stroke however their relationship has grown distant, especially so now, after all their 5 children have left home. Puan Sri ABC who is now contemplating a divorce, is very concerned about her financial position and entitlement to a share in the matrimonial assets.

**Continued...**

Her husband's business concerns include a Publicly Listed company in Malaysia called XYZ Industries Berhad which has been estimated to be worth about RM 1.2 billion. The matrimonial home in Kuala Lumpur is estimated to be worth RM 30 million. In addition to the matrimonial home Tan Sri XYZ also owns several other properties around Kuala Lumpur and several holiday homes overseas. As the wife of a billionaire Puan Sri has lead a luxurious lifestyle throughout her marriage with unlimited access to housekeeping assistance, travelling in private jets on yearly shopping and foreign holiday trips and being chauffer driven in a Rolls Royce among others.

Advise Puan Sri ABC on financial provisions and division of matrimonial property upon divorce.

(Total: 25 marks)

**QUESTION 5**

Explain the meaning and reasoning behind s.50 (1) and s.50 (2) of the Law Reform (Marriage and Divorce) Act 1976.

(Total: 25 marks)

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